

REMARKS/ARGUMENTS

Applicant appreciates the thorough examination of the present application, as evidenced by the first Official Action. The Official Action rejects Claims 1-18 under 35 U.S.C. § 112, second paragraph, objecting to the language “position” and alleging that the claims are not clear as to its referring to geographic position or rank (or logical position). In response, Applicant has amended Claims 1-3, 7-9 and 13-15 to clarify the recited “position” as being a “logical position.” Accordingly, Applicant respectfully submits that the rejection of Claims 1-8 as being indefinite is overcome.

The Official Action also provisionally rejects Claims 1-3, 6, 7, 12-15 and 18 on the ground of non-statutory obviousness-type double patenting over U.S. Patent Application No. 10/749,042 to Graff. In response, Applicant notes that at such time as this provisional rejection matures into an obviousness-type double patenting rejection with the issuance of the ‘042 application, Applicant will respond accordingly, such as by filing a Terminal Disclaimer.

Further, the Official Action rejects Claims 1-3, 6-9 and 12-18 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0087629 to Juitt et al.; and rejects the remaining claims, namely Claims 4, 5, 10 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Juitt, in view of Yolanta Beresnevichiene, *A Role and Context based Security Model*, Technical Report No. 558, 76-80. As explained below, however, Applicant respectfully submits that the claimed invention is patentably distinct from Juitt, alone or in combination with Beresnevichiene. Accordingly, Applicant traverses these rejections of the claims. Nonetheless, Applicant has amended various ones of the claims to further clarify the claimed invention, and added new Claims 19-26 to recite further patentable aspects of the present invention. In view of the amendments to the claims, the newly added claims, and the remarks presented herein, Applicant respectfully requests reconsideration and allowance of all of the pending claims of the present application.

A. Claims 1-3, 6-9 and 12-18 are Patentable over Juitt

Briefly, Juitt discloses a system and method managing data traffic in wireless networks. As disclosed, the system includes a gateway server interposed between wireless access points and protected networks to provide security and integration functions. The gateway server includes an authentication subsystem, a role assigner and an access controller. In operation, the gateway server receives a request to access the protected network, and based on the request, the authentication subsystem authenticates the user. If the user is authenticated, the role assigner assigns a role to the user, where the role specifies network resources and degree of access to the protected network. The access controller may then provide differential access to the protected network based on the user's assigned role.

According to one aspect of the present invention, as reflected in amended independent Claim 1, a system includes a terminal, server, and primary and secondary certification authorities (CA's). As recited, the terminal is configured to communicate within and/or across one or more networks, and is included within an organization including a plurality of terminals each of which is at one or more of a plurality of logical positions within the organization. The primary CA is configured to issue an identity certificate to each terminal of the organization, including being configured to provide an identity certificate to the respective terminal in the organization. The secondary CA is configured to provide one or more role certificates to the terminal based upon the logical position(s) of the terminal within the organization. In this regard, the organization includes a plurality of secondary CA's configured to issue role certificate(s) to respective groups of terminals of the organization based upon the logical position(s) of each of the respective terminals within the organization. Finally, the server is configured to authenticate the terminal based upon the identity certificate and the role certificate(s) of the terminal to thereby determine whether to grant the terminal access to one or more resources of the server.

In contrast to amended independent Claim 1, Juitt does not teach or suggest at least the recited secondary CA and server elements. Each of these elements will now be separately addressed.

1. Secondary CA Providing Role Certificate(s)

As indicated above, in contrast to amended independent Claim 1, Juitt does not teach or suggest a secondary CA configured to provide role certificate(s) to a terminal. The Official Action cites the role assigner of Juitt as corresponding to the recited secondary CA. As disclosed by Juitt, the role assigner of a gateway server assigns a role to an authenticated user, where the role includes one or more policies specifying the scope of performances permitted for the user. Nowhere, however, does Juitt teach or suggest that the assigned role or its policies are reflected in a digital certificate provided to the respective user, similar to the role certificate(s) of the claimed invention. Applicant acknowledges that during prosecution, the claims are to be given their broadest reasonable interpretation, but note that that interpretation must be consistent with the specification as well as the interpretation that those skilled in the art would reach. MPEP § 2111 (*citing In re Cortright*, 165 F.3d 1353, 1359 (Fed. Cir. 1999)). And given that certificates are well explained in the specification, and understood to those skilled in the art, nowhere does Juitt teach or suggest anything corresponding to the recited role certificate(s).

2. Server Authenticating a Terminal based on Role Certificate(s)

In further contrast to amended independent Claim 1, Juitt also does not teach or suggest a server configured to authenticate the terminal based on the role certificate(s). Notably, the Official Action alleges that Juitt discloses authenticating a user based on an identity certificate (a generically disclosed certificate in Juitt), but does not cite to any disclosure of Juitt corresponding to authentication also being accomplished based on anything corresponding to a role certificate. Moreover, consider for the sake of argument (although expressly not admitted) the Official Action's interpretation of an assigned role as corresponding to the recited role certificate. Nowhere does Juitt teach or suggest authenticating the user based on the user's assigned role. Rather, Juitt explicitly discloses that the user is assigned a role after the user is authenticated. Moreover, given that the authentication server has prior information from which the user's role is assigned, Applicants respectfully submit that not only does Juitt fail to teach or suggest authenticating the user based on the user's assigned role, but that one skilled in the art would not be motivated to modify Juitt to authenticate the user based on the user's assigned role.

Applicant therefore respectfully submits that amended independent Claim 1, and by dependency Claims 2-6, is patentably distinct from Juitt. Applicant also respectfully submits that amended independent Claims 7 and 13, and new independent Claims 19 and 23, recite subject matter similar to amended independent Claim 1, including the provision of role certificate(s) to a terminal and authentication of the terminal based thereon. Thus, Applicants respectfully submit that amended and new independent Claims 7, 13, 19 and 23, and by dependency Claims 8-12, 14-18, 20-22 and 24-26, are also patentably distinct from Juitt for at least the same reasons given above with respect to amended independent Claim 1.

Further, Applicant respectfully submits that various ones of dependent Claims 2-6 (and similarly Claims 8-12, 14-18, 20-22 and 24-26) recite features further patentably distinct from Juitt, two of which are explained below.

3. *Service Plans/Services of a Cellular Service Provider*

Amended dependent Claims 2 and 3, and similarly dependent Claims 8, 9, 14, 15, 20, 21, 24 and 25, further recite that the organization within which the terminal is included comprises the customer base of a cellular service provider. As further recited by dependent Claim 2 (and similarly Claims 8, 14, 20 and 24), the position(s) in that organization (based on which role certificate(s) are issued) comprise service plans offered by the cellular service provider. And as further recited by dependent Claim 3 (and similarly Claims 9, 15, 21 and 25), the position(s) in that organization (based on which role certificate(s) are issued) comprise services offered by the cellular service provider. These features are also not taught or suggested by Juitt.

In rejecting dependent Claims 2 and 3, the Official Action cites paragraph 0038 of Juitt as disclosing its wireless network 105 as supporting a cellular network. The Official Action then continues by alleging that “[i]t is inherent that a cellular network will be used by a cellular service provider,” and that “[i]t is inherent that cellular providers have service plans.” Official Action of Jan. 10, 2007, page 7. Applicant respectfully disagrees, and submits that not only has the Official Action failed to establish inherency of the aforementioned features, but that even if the disclosed wireless network 105 is a cellular network of a provider having service plans or services, Juitt still does not teach or suggest dependent Claims 2 or 3.

As disclosed in the MPEP, the Examiner bears the burden of establishing inherency in the prior art. More particularly, as explained in the MPEP, “In relying upon the theory of inherency, the examiner must provide a basis in fact and/or in technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” MPEP § 2112 (*quoting Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original)). To establish inherency, evidence must make clear that the missing descriptive matter is necessarily present in the prior art, and would be recognized as being present in the prior art by those skilled in the art. “Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999), *citing Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1268, 1269 (Fed. Cir. 1991) (emphasis added).

In the instant case, the Examiner has failed to provide any facts or technical reasoning to support the conclusion that Juitt inherently discloses the aforementioned cellular service provider and service plans/services provided thereby. And more particularly, the Examiner has failed to cite any supporting evidence to establish that cellular networks are necessarily used by cellular service providers, or that cellular service providers necessarily provide a plurality of service plans or services.

Moreover, Applicant respectfully submits that nowhere does Juitt disclose that its protected network (i.e., the network to which the user must be authenticated) is a cellular network. Rather, in the cited paragraph 0038 as well as in a number of other paragraphs, Juitt only discloses that the wireless network within which the user is operating to request access to another, protected network may be a cellular network. And Juitt fails to teach or suggest any authentication for the wireless network from which the user requests access to the protected network. Thus, even if Juitt did inherently support the wireless network including a provider offering service plans/services, Juitt still does not teach or suggest assigning a role to a user (allegedly corresponding to the recited role certificates) based on a service plan/service of a cellular service provider for that network.

For at least the foregoing reasons, Applicant respectfully submits that Claims 1-3, 6-9 and 12-18 are patentably distinct from Juitt, and that the rejection of those claims as being anticipated by Juitt is overcome.

B. Claims 4, 5, 10 and 11 are Patentable over Juitt, in view of Beresnevichiene

The first Official Action also rejects Claims 4, 5, 10 and 11 as being unpatentable over Juitt, in view Beresnevichiene. Applicant respectfully submits, however, that Beresnevichiene does not cure the defects of Juitt. That is, neither Juitt nor Beresnevichiene, taken individually or in any proper combination, teach or suggest the claimed invention. Accordingly, Applicant respectfully submits that that the claimed invention is patentably distinct from Juitt, in view Beresnevichiene.

For at least the foregoing reasons, Applicant respectfully submits that the rejection of Claims 4, 5, 10 and 11 as being unpatentable over Juitt, in view of Beresnevichiene is overcome.

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Reply to Official Action of January 10, 2007

CONCLUSION

In view of the amended claims, the added claims and the remarks presented above, Applicant respectfully submits that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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